

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
MINUTE ORDER**

Department: W11

COURT CONVENED AT:		ON:	MAY 5 2004
JUDGE / COMM:	MARY FINGAL ERICKSON	CLERK:	DENISE DAVIS
BAILIFF:	NONE	REPORTER:	NONE

AND THE FOLLOWING PROCEEDINGS WERE HAD:

02CC18451 BHARADWAJA VS WIRELESSCOMPANY

No appearances. The Court, having taken this matter under submission on April 29, 2004 hereby issues it's ruling which is attached hereto and incorporated herein by reference. Clerk to give notice. ENTERED:

5-5-04

Robert W. Skripko Jr 1323 N. Broadway Santa Ana, Ca. 92706
Marcello Di Mauro 640 Solway Street Glendale, Ca. 91206
Wesierski & Zurek 1 Corporate Park Drive Second Floor Irvine, Ca. 92606

CLERK'S CERTIFICATE OF MAILING (C.C.P. SECTION 1013a) - I certify that I am not a party to this cause, that I am over age 18, and that a copy of this document was mailed, first class postage fully prepaid, in a sealed envelope addressed as shown below. Mailing and execution of this certificate occurred on 5-6-04 in Santa Ana, California. ALAN SLATER, EXECUTIVE OFFICER/CLERK, by


_____, Deputy Clerk
Denise Davis

ORIGINAL FILE

BHARADWAJA VS WIRELESSCOMPANY.COM INC.

CASE NO. 02CC18451

MOTION TO AWARD ATTORNEY'S FEES, SUBMITTED TO THE COURT ON APRIL 29, 2004:

Weighing the nature of the litigation and its difficulty, the amount of money involved, the skill required and employed in handling the litigation, the amount of time spent on the case, and the attorneys' experience level, the Court fixes attorney fees in this matter at **\$77,877.50**. (\$85,877.50 plus \$1650 for the motion to fix attorney fees, less \$8000.00 per comments below).

The hourly rate is not unreasonable for this type of case. Prior to becoming a judge, and during my years in practice, I served on the Orange County Bar Association's Fee Arbitration Committee. I reviewed and arbitrated numerous fee disputes between attorneys and their clients. I have reviewed numerous attorney fee requests as a judge. On the civil panel alone, in 16 months, I have tried about 36 cases, both jury and court trials. My observation has been that often the amount recovered is far less than the amount of time and effort spent to obtain the recovery, both in personal injury cases, and in the business case. That does not make the fee charged to the client unreasonable. This case was not as simple as the defense would suggest. After the matter was submitted to me, I must have spent at least 20 hours reviewing the testimony, the exhibits, and the law, not to mention preparing my decision. Thankfully, I left behind time sheets when I quit the practice of law, so this is just a rough estimate of my time, thinking back now 6 months in the past.

I have carefully reviewed all of the bills, and find no evidence of over billing, unnecessary, or duplicative charges. The bill included charges for opposing a demurrer, responding to an ex parte motion, and opposing a motion for judgment on the pleadings. The settlement offer was very low, not even taking into account costs of defense. Although having two attorneys at trial was of course helpful to the plaintiff, and per Mr. Walsh's statements at oral argument, was occasioned in part by some health issues, the Court does not believe it is appropriate or fair to charge that against the defendants, so \$8000 for 4 trial days for one lawyer (\$2000 per day) is disallowed.

At oral argument, the defense was not able to state what they spent, dollar or hour wise on this case. Defense counsel's hourly rate, per the attorney from the firm who appeared at the hearing, was \$250. No suggestion was forthcoming from the defense as to what constitutes a fair and reasonable fee for this case, other than less than what was requested, and perhaps less than the judgment the Court awarded. (It should be noted here that plaintiff sought recovery of punitive damages, which were not awarded, and compensatory damages somewhere in the neighborhood of \$70,000, according to the Court's notes).

The trial documents (evidentiary brief, statement of the case, legal argument) were comprehensive, and extremely helpful to the Court in framing the issues and explaining the facts. I have, over the course of 7 years on the bench, not to mention 16 years as a trial attorney (3 in

the District Attorneys Office, 13 in private practice focusing on personal injury defense and business litigation) observed a lot of attorneys in the courtroom. The lawyers for the plaintiff (as well as the defense) rate, in my estimation, in the top 10% for preparedness, professionalism, and skill in advocacy.

May 5, 2004
Judge Mary Fingal Erickson
Dept. W11